IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 9017 of 2004

Between:

M/s. Asra Ice Canding, rep by Prop M.A. Shafiq S/o Shaik Ahmed, Business Alampally Road, Vikarabad Rangareddy district

..... PETITIONER

AND

1 TRANSCO Corporation of A.P. Ltd., rep by Chairman Vidyut Soudha, Somajiguda, Hyderabad
2 The Assistant Divisional Engineer Electrical Operations, APCPDCL, Vikarabad, Ranga Reddy district
3 Assistant Accounts Officer/ERO Vikarabad, Rangareddy District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned notice ADE/DPE-II/RR/4037/III/D. NO. 3586/04 dated 15-04-2004 issued by the Respondent No.2 as arbitrary, illegal, consequently pleased to direct the Respondents to restore power supply to the petitioners premises vide service Connection No. 4037, Alampally road, Vikarabad.

Counsel for the Petitioner: MR.VIJAY KUMAR HEROOR

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court, at the stage of admission, made the following:

ORDER:

Petitioner is a small-scale industry undertaking production of Ice. It is extended electricity supply. It fees aggrieved by a demand notice, dated 15.04.2004, whereunder a sum of Rs.2,66,631/- is required to be paid by the petitioner. The same is challenged in this writ petition.

Learned counsel for the petitioner submits that the petitioner is a seasonal industry, and its business is at its peak during the months of May, June and July. It is alleged that taking the consumption of these three months into account, the respondents suspected that the pilferage may have been resorted to by the petitioner for the other months, and the basis for the demand is the same. It is also represented that the demand is based on the provisional assessment, dated 07.05.2004.

Learned standing counsel for the respondents, on the other hand, submits that the petitioner has to deposit at least half of the amount to ensure continuance of supply.

The demand through the impugned notice is based upon an order of provisional assessment, dated 07.05.2004. Petitioner is to be issued a Show-Cause notice before an order of final assessment is passed. Its liability will arise only after an order of final assessment is passed. A Division Bench of this Court held that no consumer of electricity can be fastened with any liability, on the basis of provisional assessment.

In that view of he matter, the writ petition is allowed and the respondents are directed to restore the supply to the petitioner, without insisting on payment of the amount demanded through the impugned notice. Its liability would arise only after an order of final assessment is passed. Petitioner is, however, shall be liable to pay the regular consumption charges. No order as to costs.

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L.NARASIMHA REDDY, J

Dated : 20th December, 2004

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To

1 The Chairman, TRANSCO Corporation of A.P. Ltd., Vidyut Soudha, Somajiguda, Hyderabad
2 The Assistant Divisional Engineer Electrical Operations, APCPDCL, Vikarabad, Ranga Reddy district
3 The Assistant Accounts Officer/ERO Vikarabad, Rangareddy District

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